



NEWS RELEASE

Wisconsin Department of Natural Resources
101 S Webster, P.O. Box 7921, Madison, WI 53707
Phone: (608) 266-6790 TDD: (608) 267-6897
dnr.wi.gov www.wisconsin.gov

DATE: Released in the June 28, 2005 DNR News

CONTACT: Toni Herkert (608) 266-0161; Russ Rasmussen (608) 267-7651

SUBJECT: Proposed shoreland rules clarify setbacks for property with wetlands or bogs

MADISON, Wis. -- Proposed changes in Wisconsin's shoreland protection rule would clarify setbacks for waterfront property owners who have a wetland or bog between their upland and open water, and could allow homes to be closer to open water than currently allowed. The provision is part of draft rules that are the topic of public hearings statewide in July and August.

Under the proposed changes, if a wetland extends more than 40 feet between open water and the upland boundary of the wetland, the county may allow structures to be set back 35 feet from the upland portion of the wetland. As a result such homes could be set back a total of 75 feet from open water considerably closer to the water than under the current standard.

Current rules require the homes to be set back 75 feet or more from the ordinary high water mark. The ordinary high water mark, or OHWM, is where the regular action of water against the bank leaves a distinct mark, and it establishes the boundary between publicly owned lakebed and privately owned land.

The OHWM is not always at or even near the water's edge, according to Russ Rasmussen, who leads the DNR watershed management program. This is often the case if a property has a wetland or bog between the upland and open water. As a result, it's often difficult to determine the ordinary high water mark, property owners may receive conflicting assessments of where the mark is from county officials and DNR staff.

"There have been disputes as to where the Ordinary High Water Mark actually is," Rasmussen says. "We are proposing to take some of the confusion out of the process and we want to see what the public has to think of this proposal."

(more)

Rasmussen says the point of the proposal is to establish a simpler process for waterfront property owners to understand where they can build homes on shoreland lots bordered by a wetland or bog. One simplification is that the proposal spells out which assessment of the Ordinary High Water Mark -- a county's or the DNR's -- is accepted in situations in which the assessments differ by at least 1 foot.

At the same time, he says, the setback provision concerning properties with a wetland between the upland and open water are consistent with what the revised rule is trying to achieve on all other waterfront properties. That overarching goal is to protect the first 35 feet of land next to the water. That land, known as the primary buffer, is the most critical shoreland area for providing habitat for fish and wildlife, filtering polluted runoff to protect water quality, and providing natural scenic beauty. So the rules seek to keep it in as natural state as possible, and limit structures within it.

Rasmussen says the number of waterfront property owners who could benefit from the proposed provision would increase in coming years because buildable waterfront lots are increasingly scarce. As a result, people are buying lots they once shunned because their soils, slopes, and other features made building on them more difficult and costly.

"As development proceeds along lakes, these types of sites are now the only ones that remain," he says.

People who plan to build a house or an addition need to know the ordinary high water mark to meet county ordinances for building setbacks, and the same is true when people are applying to DNR for a permit to grade or make other changes to their shoreline.

This new provision concerning setback distances for waterfront properties with wetlands is part of the shoreland protection rule package that is the topic of statewide public hearings in July and August.